

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

SLADE GORTON & CO., INC.,	)	
	)	
Plaintiff,	)	
	)	
v.	)	CIVIL ACTION NO. 05-11366-MLW
	)	
ANTONIO BARILLARI, S.A.	)	
	)	
Defendant.	)	
	)	

**MEMORANDUM IN SUPPORT OF SLADE GORTON & CO., INC.'S  
SECOND MOTION TO ENLARGE TIME TO EFFECT SERVICE ABROAD**

Plaintiff, Slade Gorton & Co., Inc. (“Slade Gorton”), hereby submits this Memorandum in Support of its Second Motion to Enlarge Time to Effect Service Abroad.

## I. Introduction

Slade Gorton filed its complaint in this action on June 28, 2005. Since the complaint was filed, Slade Gorton has continuously attempted to effect service on the defendant, Antonio Barillari, S.A. (“Barillari”). As stated in Slade Gorton’s March 30, 2006 Motion, Barillari, upon information and belief, is a foreign corporation, located in Argentina, with no offices or agents authorized to accept service of process in the United States. Slade Gorton, therefore, pursuant to Fed. Rule Civ. P. 4(h)(2) and 4(f)(1), has attempted service using the procedure specified by the Hague Convention for the Service Abroad of Judicial and Extrajudicial Documents (the “Hague Convention”).

On March 20, 2006, this Court issued an order requiring Slade Gorton to file proof of service or show good cause why service had not been made. In response, Slade Gorton filed its first Motion to Enlarge Time to Effect Service Abroad on March 30, 2006. The Court, on April

14, 2006, entered an electronic order granting Slade Gorton's motion, and ordering that "[s]ervice shall be made by July 28, 2006 or a request for a possible further extension shall be filed by then."

## **II. Discussion**

Since the entry of the Court's April 14, 2006 Order, Slade Gorton has continued in its efforts to effect service pursuant to the Hague Convention, but as of this date, has not yet been successful.

On Wednesday, July 5, 2006, counsel for Slade Gorton communicated with its international process server, APS International, Ltd., ("APS") to confirm the status of service. APS informed counsel that the documents related to service are in the possession of the Argentinean courts, but APS has not received any notice from the Argentinean courts or Argentine Central Authority, the Argentine agency responsible for service under the provisions of the Hague Convention, that service has been made on Barillari.

Nonetheless, Slade Gorton seeks to continue its efforts to effect service on Barillari, rather than to seek a default judgment at this time, as it is entitled to do under the Hague Convention. As such, at the present time, Slade Gorton is actively looking for a means to expedite service.

To that end, Slade Gorton now seeks additional time to effect service.

## **III. Conclusion**

Slade Gorton has made, and continues to make diligent, good-faith efforts to serve Barillari in the manner prescribed by the Federal Rules. This Court should enlarge the time for Slade Gorton to effect service on Barillari as the Courts deems appropriate for service pursuant to the Hague Convention.

Respectfully submitted,

SLADE GORTON & CO.

By its attorneys,

/s/ Amy B. Abbott July 20, 2006

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**CERTIFICATE OF SERVICE**

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent, via First Class mail, postage prepaid, to those non-registered participants on the 20<sup>th</sup> day of July, 2006.

/s/ Amy B. Abbott

Amy B. Abbott